

point of annoyance, invitees of the outstanding and yet-to-be-accepted invitation. Then I realized that when LinkedIn pulled my contacts into the system, it marked those who were also on LinkedIn with a little blue box containing the word “in” next to their names. So I focused on pursuing those contacts to be my LinkedIn connections, understanding that they would likely be more likely to accept because they too are using LinkedIn to expand their network.

Once your initial connections are established, LinkedIn will provide you

est in a particular subject, industry or other issue.

Recommendations

A great feature of LinkedIn is the ability to receive and post recommendations from former clients, employers or colleagues. As wonderful as it may be to have nice things published about you, it is still important that the recommendations are relevant and realistic. If the recommendations are “just too much” or if they appear contrived (i.e., a friend’s recommendation is on a personal rather than a professional level),

is easy to identify and understand – someone part of your LinkedIn community is currently, or was previously, at that company. Where I find such a connection, I immediately reach out to that person, ask about the company, the person(s) I am scheduled or trying to meet, the position or project and possibly get the assistance of that person in getting ahead in the process. Even an indirect connection can be just as useful. The indirect connection shows someone in your network who has someone in his or her network who is at or was at that company. When I

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with a list of “people you may know.” LinkedIn surprised me with its accuracy. I suspect that the LinkedIn system uses a matrix to compare common connections, common learning institutions, common employers and the like in compiling these suggestions. I continue to look at LinkedIn’s suggestions for potential connections. As I meet people through the more traditional methods of networking, I add them to my network, and LinkedIn’s suggestions continue to grow.

Another option for enhancing a profile and, therefore, LinkedIn presence, is to join groups. I looked at professional groups, those based on my past employers, school affiliations and associations I was a part of, as well as other affinity groups. There really isn’t a downfall to joining many groups outside of the fact that each group may send multiple notices to its members and your inbox may get flooded. (You can change your settings to manage how often emails are received.) Groups often use listserves to share information on trends, current issues, job opportunities and otherwise. Joining a group demonstrates to the LinkedIn community your inter-

they are probably more detrimental than beneficial. I have sought, and continue to seek, recommendations from people in each stage of my personal and professional career but only after I have had the opportunity to work and collaborate in some real and significant capacity with them. This allows each person to honestly and knowledgably speak to my skills, strengths and otherwise. I provide recommendations to others utilizing a similar “rule.” I only offer recommendations for people, focusing on the skills and strengths of those people, with whom I am very familiar.

Research

LinkedIn can also be utilized to obtain relevant information about people and companies. When trying to connect with a company, whether in anticipation of an interview for employment or business development purposes, search for the company on LinkedIn. If the company has a profile, it provides a source of information that can supplement the information available in periodicals or on the company’s proprietary website. LinkedIn will also show who you know, directly or indirectly, at that company. The direct connection

have this “second degree” connection, I will request that my “first degree” connection make an introduction to that “second degree” connection who can then provide me with the information or “in” I am seeking.

Similarly, before a scheduled meeting, check to see if the person with whom you are meeting is on LinkedIn. If he or she is, you can get information about that person, his or her interests, background and network; that knowledge can aid in your trying to connect. For example, it has allowed me to mention people known-in-common (granted, only after confirming that relationship is a current and amicable one), recognize and reminisce about a common university experience and so on. LinkedIn also allows you to look up someone you do not know and want to connect with, but do not yet have a meeting with. You can see if there is someone in your network who might be willing to make an introduction. Just like with anything else, however, you need to consider how often you ask someone, respect what, if anything, the person is willing to do and the manner in which he or she is willing to do it. And be willing to reciprocate.

I personally have not made great use of the LinkedIn groups feature, although I know many who have, and I have only rarely posted into discussion groups. A danger with becoming too involved with posting is that, in attempting to get your name out, it can be easy to become an annoyance. Every time there is a post into a group's discussion page, the site sends out a notice of a new post to the group's members; so, if a member (who may be just the person someone is trying to impress) has not altered the default email settings, his or her inbox may be loaded with notices about the "serial" poster's latest musing. I have actually heard some colleagues commenting that they have unsubscribed from a group because of serial posts, and their impression of that poster is irreversibly marred.

Should You Get a Subscription?

Finally, do you need to get a paid subscription to get true benefit from using LinkedIn? My opinion is that it is not necessary. I like that the subscription service provides the ability to email people directly even if they are not a connection through the "in-mail" feature, that I can see who has viewed my profile as well as statistics regarding the number of views my profile receives and, when I submit for a job requisition, I am provided with greater information about the position, such as salary information, and can check a box to make my resume a "featured" application. Whether you need or want those or the other additional features that a paid subscription may provide depends on your personal goals and intended usage of the site.

Conclusion

Maintaining a network and a LinkedIn profile needs to be an ongoing endeavor. LinkedIn should be used, in whatever manner and however extensively a person is comfortable with, as a tool for professional networking and development. Most great opportunities come from whom you know, and LinkedIn provides a way to know more people. LinkedIn is also a great marketing tool. It is a personal website, demonstrating experiences and expertise and providing forums in which to share and from which to gather information. Like any other tool, however, you need to use it properly and appropriately not to be injured rather than assisted by it. ■

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To the Forum:

I serve as outside counsel to a large multi-national company. Jacob Sladder, the company's in-house counsel, has asked me to become involved in a matter involving a disgruntled former employee who claims that she was fired from the company after reporting that she was harassed by a number of her supervisors based upon her religious beliefs.

Sladder advised me that the company had received a claim letter from an attorney for the former employee, asserting that the company has a culture that promotes religious discrimination, demanding a fat settlement, and threatening suit if the matter is not resolved promptly. He explains, obviously within the boundaries of the attorney-client privilege, that he is concerned that the former employee's discrimination claims may have merit, both with respect to the individual complaining ex-employee and other potentially aggrieved employees. In particular, Sladder worries that company emails, both recent and extending as far back as five years, may include inculcating material. He explains that although he has not examined the emails and does not know whether they contain any smoking guns, statements to him from corporate employees lead him to believe that the contents of some messages may be problematic.

From my work with the company over the years, I am aware that under its records retention protocol, each month the company's management information system (MIS) personnel remove from the company's active system emails sent during the same month a year earlier, and that emails for each such purged month are retained on back-up tapes, with separate tapes for each month. Because of the company's large-scale, worldwide operations, each month the company thus removes thousands of email messages. Inside counsel has asked me whether, on the basis of the letter from the lawyer for the former employee threatening litigation, the company has any obligation to alter its

purge-and-retention procedure. What should I tell him?

The company's MIS personnel further informed me that as long as emails remain on the company's active system (that is, are less than a year old), they may be located and searched by author, recipient, or any words or combination of words that appear in the text. Once, however, they have been purged from the system and stored on tape, they are in effect "read only" and may not be searched by any of the means available for current emails.

The net result is that if litigation begins and the company is called upon to disgorge its relevant emails, the cost to search currently maintained messages will be far less than the burden of searching the historical messages stored on the monthly tapes. I know that the company's emails include many items subject to the attorney-client privilege, and others that, although non-privileged, nonetheless contain sensitive business information that is unrelated to the claims asserted by the former employee and the company does not want outsiders to see.

Accordingly, Sladder suggests that perhaps it is time to alter the company's records retention policy to provide for purging of emails, and storage on back-up tapes, after six months or three months, not one year. If nothing else, he adds tartly, changing the policy would make it more difficult for this ex-employee, and other potential underfunded claimants, to get access to company emails. What advice do I give him?

Sincerely,
Noah Zark

Dear Noah Zark:

Electronic discovery is a rapidly evolving world that attorneys cannot ignore – and they must learn. Although the Rules of Professional Conduct (RPC) do not directly address an attorney's obligations regarding electronic discovery, numerous provisions of the RPC (and particularly, some of the Comments to the Rules) are instructive regarding the obligations of

an attorney to identify, preserve and produce relevant electronically stored information (ESI) in a given matter.

To start, Rule 1.1 establishes a lawyer's ethical obligation to provide competent representation. In particular, Rule 1.1(a) provides that "[c]ompetent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation." Though admittedly a very broad statement, in our view, this rule requires that attorneys have a basic understanding of the technologies used in the identification and preservation of ESI.

Rule 3.4 is also applicable. It requires that an attorney act with fairness to the opposing party and opposing counsel. At the outset, Rule 3.4(a)(1) states that "[a] lawyer shall not . . . suppress any evidence that the lawyer or the client has a legal obligation to reveal or produce . . ." Additionally, Rule 3.4(a)(3) states that "[a] lawyer shall not . . . conceal or knowingly fail to disclose that which the lawyer is required by law to reveal . . ."

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